

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>9/05/2017</u>

-----X
 MPI TECH A/S, :
 :
 Plaintiff, :
 :
 -against- :
 :
 INTERNATIONAL BUSINESS MACHINES :
 CORPORATION, :
 Defendant. :
 -----X

15 Civ. 4891 (LGS)

ORDER

LORNA G. SCHOFIELD, District Judge:

WHEREAS, on October 19, 2015, the Court entered the Protective Order stipulated by the parties, with modifications regarding filing documents under seal;

WHEREAS, the Protective Order included a “use” restriction on “[a]ll Discovery Material produced in the Action”;

WHEREAS, on July 1, 2016, Plaintiff, through its attorney Marc J. Goldstein, moved to clarify and/or modify the Protective Order;

WHEREAS, on October 13, 2016, Magistrate Judge Freeman issued an Order finding that the Protective Order unambiguously prohibited Plaintiff from using documents produced thereunder for the purpose of asserting new claims in a separate lawsuit, and that a modification of this aspect of the Protective Order was not warranted;

WHEREAS, Plaintiff did not seek reconsideration of the October 13, 2016, Order;

WHEREAS, on November 14, 2016, the Court denied Plaintiff’s motion for leave to file the Third Amended Complaint to assert new copyright infringement claims, instead of in a new lawsuit;

WHEREAS, on November 25, 2016, Plaintiff proceeded to commence a new action (the

“new action”) in this Court, asserting copyright infringement and related claims against Defendant and Crawford Technologies, Inc. in violation of the Protective Order’s use restriction;

WHEREAS, in a motion docketed on January 23, 2017, Defendant moved to hold Goldstein and/or Plaintiff in civil contempt and for sanctions based on the new action;

WHEREAS, on April 18, 2017, Judge Freeman issued a Report and Recommendation (the “Report and Recommendation”) setting forth facts justifying a finding that Goldstein and Plaintiff are in contempt and recommending sanctions;

WHEREAS, on April 26, 2017, Goldstein’s time to file an objection to the Report and Recommendation was extended until May 23, 2017;

WHEREAS, on May 3, 2017, Goldstein requested to withdraw as Plaintiff’s counsel, which the Court granted on May 9, 2017;

WHEREAS, on May 25, 2017, the Court ordered Defendant to file its response to Goldstein’s objection to the Report and Recommendation on or before June 6, 2017;

WHEREAS, on June 14, 2017, Plaintiff, through its new counsel, requested an extension of time to file an objection to the Report and Recommendation;

WHEREAS, on June 15, 2017, the Court extended Plaintiff’s time to file an objection to the Report and Recommendation until June 29, 2017, and ordered Defendant to file any response to Plaintiff’s objection on or before July 7, 2017;

WHEREAS, on June 23, 2017, this matter was referred to Magistrate Judge Ellis for settlement discussions;

WHEREAS, a settlement conference before Judge Ellis currently is scheduled for September 29, 2017;

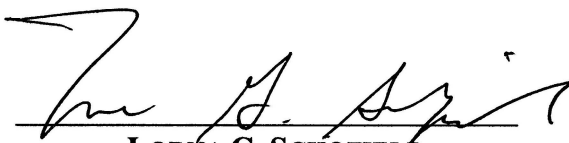
WHEREAS, on August 11, 2017, the Court extended Plaintiff’s time to object to the

Report and Recommendation until October 30, 2017, and Defendant's time to respond to Plaintiff's objection until November 13, 2017. It is hereby

ORDERED that without considering or addressing the merits of Defendant's motion for sanctions against Goldstein and/or Plaintiff, Defendant's motion is **DENIED** without prejudice to renewal after the parties' settlement conference with Judge Ellis. If Defendant renews its sanctions motion, the Court will decide the motion based upon the parties' previously filed motions and accompanying memoranda of law, the Report and Recommendation and the parties' previously filed objections to the Report and Recommendation, as well as Plaintiff's objection to the Report and Recommendation, if any, and Defendant's response to Plaintiff's objection, if any. If Defendant renews its motion for sanctions against Goldstein and/or Plaintiff after the settlement conference, Plaintiff's objection to the Report and Recommendation shall be filed on or before **October 30, 2017**, and Defendant's response shall be filed on or before **November 13, 2017**, in accordance with the Order docketed on August 11, 2017.

The Clerk of Court is directed to close the motions at Docket Nos. 257 and 276 and to leave the case open until final resolution of the issues underlying Defendant's January 23, 2017, sanctions motion.

Dated: September 5, 2017
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE